

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

**WILLIAM E. GNASS, HUGH M.  
FLANAGAN, MICHAEL L. MASON,  
KENNETH M. ROBBINS, CORBETT  
J. BROWNING, and FLANAGAN,  
MASON, ROBBINS, & GNASS, a law  
corporation,**

**Plaintiff,**

**v.**

**JAMES C. BRAZELTON (District  
Attorney of the County of Stanislaus),  
DAVID P. HARRIS (Senior Deputy  
District Attorney of the County of  
Stanislaus), MARK D. SMITH  
(Investigator for Office of District  
Attorney, County of Stanislaus), and the  
COUNTY OF STANISLAUS,  
CALIFORNIA,  
COMPANY; BULWARK  
PROTECTIVE APPAREL;  
AMERIPRIDE UNIFORM SERVICE;  
and DOES 1-100, Inclusive,**

**Defendant.**

**CIV- F-98-6409 AWI DLB**

**ORDER CLOSING CASE IN  
LIGHT OF PLAINTIFFS'S  
RULE 41(a)(1)(ii)  
VOLUNTARY DISMISSAL**

On September 8, 2005, Plaintiffs filed a stipulation for dismissal with prejudice as to all Defendants pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii). The notice is signed by each party who has appeared in this case.

Rule 41(a)(1), in relevant part, reads:

an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or

1 of a motion for summary judgment, whichever first occurs, or (ii) by filing a  
2 stipulation of dismissal signed by all parties who have appeared in the action.  
3 Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is  
4 without prejudice, except that a notice of dismissal operates as an adjudication  
upon the merits when filed by a plaintiff who has once dismissed in any court of  
the United States or of any state an action based on or including the same claim.

5 Rule 41(a)(1)(ii) thus allows the parties to dismiss an action voluntarily, after service of an  
6 answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared,  
7 although an oral stipulation in open court will also suffice. Carter v. Beverly Hills Sav. & Loan  
8 Asso., 884 F.2d 1186, 1191 (9th Cir. 1989); Eitel v. McCool, 782 F.2d 1470, 1472-73 (9th Cir.  
9 1986). Once the stipulation between the parties who have appeared is properly filed or made in  
10 open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro.  
11 41(a)(1)(ii); Eitel, 782 F.2d at 1473 n.4. “Caselaw concerning stipulated dismissals under Rule  
12 41(a) (1) (ii) is clear that the entry of such a stipulation of dismissal is effective automatically and  
13 does not require judicial approval.” In re Wolf, 842 F.2d 464, 466 (D.C. Cir. 1989); Gardiner v.  
14 A.H. Robins Co., 747 F.2d 1180, 1189 (8th Cir. 1984); see also Gambale v. Deutsche Bank AG,  
15 377 F.3d 133, 139 (2d Cir. 2004); Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d 1074,  
16 1077 (9th Cir. 1999) cf. Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)  
17 (addressing Rule 41(a)(1)(i) dismissals). “The plaintiff may dismiss some or all of the  
18 defendants, or some or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal  
19 “automatically terminates the action as to the defendants who are the subjects of the notice.”  
20 Wilson, 111 F.3d at 692; Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995).

21 Because Plaintiff has filed a stipulation for dismissal with prejudice as to all parties under  
22 Rule 41(a)(1)(ii) that is signed by all parties who have made an appearance, this case has  
23 terminated. See Fed. R. Civ. Pro. 41(a)(1)(ii); In re Wolf, 842 F.2d at 466; Gardiner, 747 F.2d at  
24 1189; see also Gambale, 377 F.3d at 139; Commercial Space Mgmt., 193 F.3d at 1077; cf.  
25 Wilson, 111 F.3d at 692.

1 Therefore, IT IS HEREBY ORDERED that the Clerk is ordered to close this case in light  
2 of Plaintiff's filed and properly signed Rule 41(a)(1)(ii) Stipulation For Dismissal With  
3 Prejudice.

4 IT IS SO ORDERED.

5 **Dated: September 13, 2005**  
6 0m8i78

**/s/ Anthony W. Ishii**  
UNITED STATES DISTRICT JUDGE